

Business Ownership & Succession Planning

If you own a business, your executor needs to know about it.

Businesses don't pause when you die. Employees still need to be paid. Suppliers still need to be managed. Customers still need to be served. And someone needs to make decisions about whether to keep the business running, sell it, or close it down.

Without clear instructions and information, your business could lose value quickly - or collapse entirely.

This section helps your executor understand your business, know who to contact, and make informed decisions about its future.

What kind of business structure do you have?

The structure of your business affects what happens when you die:

Sole trader. You are the business. When you die, the business generally cannot continue in your name, and your executor deals with what is left of it. Your executor can try to sell the business as a going concern (keep it running and sell it to someone else), or they can wind it down (sell the assets, pay the debts, close it).

Partnership. You own the business with one or more partners. When you die, the partnership agreement should specify what happens to your share. Usually, the surviving partners have the option to buy out your share (either from you or your estate). If there's no partnership agreement, things get messy.

Company. The business is a separate legal entity. When you die, your shares in the company go into your estate and are distributed according to your Will. The company keeps running. But your executor needs to know about any shareholder agreements (which might require your shares to be sold to other shareholders).

Trust. The business is owned by a trust. When you die, the business stays in the trust. But if you're the trustee or appointor, your executor needs to know who takes over those roles.

Do you have a succession plan?

Succession planning means deciding what happens to your business when you die.

Options include:

- Sell to a co-owner or business partner. If you own the business with others, they might want to buy your share. This should be documented in a buy-sell agreement (sometimes called a business succession agreement).
- Sell to a key employee. Maybe your general manager or head of operations wants to take over. Have you discussed this with them?
- Sell to a third party. Your executor finds a buyer and sells the business as a going concern.
- Pass it to a family member. If your son, daughter, or spouse wants to take over, make sure they're prepared and capable. Running a business is hard.
- Wind it down. Close the business, sell the assets, pay the debts, and distribute what's left.

If you don't have a plan, your executor will make the decision for you. And they might not choose what you would have chosen.

What about business debts and liabilities?

If your business owes money (business loans, supplier credit, leases, employee entitlements), your executor needs to pay those debts before distributing anything to beneficiaries.

If the business is a company or trust, the debts usually belong to the company or trust rather than to you personally. But there are exceptions, for example where you have given personal guarantees (common for business loans) or in some director liability situations, so your estate could still be on the hook. Your accountant or solicitor can confirm what applies.

Include details of all business debts and guarantees here.

WHY THIS MATTERS

A business is often one of the most valuable assets in an estate, and one of the hardest to deal with.

Without information and a succession plan, your business could lose value rapidly. Key employees

might leave. Customers might go elsewhere. Suppliers might cut off credit.

By writing down your business details and what you want to happen, you're giving your executor what they need to protect its value.

Your Business Ownership & Succession Planning

Who to call, what you owe, and what should happen to the business when you're gone.

BUSINESS 1

BUSINESS NAME

TRADING NAME

ABN

BUSINESS STRUCTURE

YOUR ROLE

OWNERSHIP %

ANNUAL REVENUE

NUMBER OF EMPLOYEES

BUSINESS 1: KEY PEOPLE

BUSINESS PARTNER NAME

PARTNER PHONE

PARTNER EMAIL

GENERAL MANAGER NAME

MANAGER PHONE

MANAGER EMAIL

ACCOUNTANT NAME

ACCOUNTANT FIRM

ACCOUNTANT PHONE

SOLICITOR NAME

Your Business Ownership & Succession Planning (cont.)

SOLICITOR PHONE

BUSINESS 1: SUCCESSION PLAN

What should happen to the business when you die.

SUCCESSION INTENTION

BUY-SELL AGREEMENT STORED AT

PARTIES TO AGREEMENT

HOW BUSINESS IS VALUED

LIFE INSURANCE TO FUND BUYOUT

BUSINESS 1: AGREEMENTS & DEBTS

SHAREHOLDER / PARTNERSHIP AGREEMENT STORED AT

SHARES OFFERED TO OTHERS FIRST?

AGREEMENT KEY TERMS TO KNOW

BUSINESS LOAN LENDER

AMOUNT OUTSTANDING

PERSONAL GUARANTEE GIVEN?

EQUIPMENT FINANCE PROVIDER

EQUIPMENT AMOUNT OUTSTANDING

Your Business Ownership & Succession Planning (cont.)

SUPPLIER CREDIT

EMPLOYEE ENTITLEMENTS OWING

BUSINESS 1: ASSETS & RECORDS

MAJOR ASSETS (EQUIPMENT, STOCK, IP)

APPROXIMATE VALUE

FINANCIAL RECORDS STORED AT

TAX RETURNS STORED AT

BUSINESS 2 (IF YOU OWN ANOTHER)

BUSINESS NAME

ABN

BUSINESS STRUCTURE

YOUR ROLE

ANNUAL REVENUE

NUMBER OF EMPLOYEES

ACCOUNTANT NAME & PHONE

SOLICITOR NAME & PHONE

SUCCESSION INTENTION

AGREEMENTS / DEBTS STORED AT

Your Business Ownership & Succession Planning (cont.)

YOUR WISHES FOR YOUR BUSINESS(ES), AND ANYTHING ELSE YOUR EXECUTOR SHOULD KNOW